



Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

603 424-3531

Fax 603 424-1408

www.merrimacknh.gov

MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY, SEPTEMBER 21, 2021

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, September 21, 2021 in the Matthew Thornton Room.

Robert Best, Chairman, presided.

Members Present:

- Neil Anketell
- Lynn Christensen
- Jaimie von Schoen
- Nelson Disco – Alternate

Members Absent:

- Paul McLaughlin - Vice Chairman
- Town Councilor Barbara Healey - Ex-Officio

Staff Present: Casey Wolfe, Assistant Planner

1. Call to Order

Robert Best called the meeting to order at 7:01 P.M. and appointed Nelson Disco into a voting position.

2. Non-Public Session under RSA 91-A:3, II(e) - Consideration or negotiation of pending litigation which has been filed against the Board.

Per RSA 91-A:3, II(e), the Board voted 5-0-0 by roll call vote to enter into nonpublic session on a motion made by Lynn Christensen and seconded by Nelson Disco.

The Board entered into a nonpublic session at 7:03 P.M.

The Board voted 5-0-0 by roll call vote to leave nonpublic session and to return to public session on a motion made by Lynn Christensen and seconded by Nelson Disco.

The Board reconvened at 7:26 P.M.

Chairman Best explained that there was an abutter notification error on the Northshore Trailer and Suspension, LLC project that was conditionally approved by the Board on July 6, 2021 (Case

PB2021-21). Due to this error, the town's Legal Counsel has recommended that the Planning Board request the Superior Court remand the case back to the Board so that it can be properly noticed and reheard.

The Board voted 5-0-0 to ask the Court to remand the recently approved site plan for Northshore Trailer and Suspension, LLC at 20 Star Drive to the Planning Board for the Board's reconsideration due to a defective abutter notice, on a motion made by Lynn Christensen and seconded by Nelson Disco.

3. Planning & Zoning Administrator's Report

The Board voted 5-0-0 to determine that the Kudalis Site Plan is not of regional impact, on a motion made by Lynn Christensen and seconded by Nelson Disco.

- 4. L & F Realty Trust (applicants/owners) –** Continued review for acceptance and consideration of a Site Plan amendment to modify site lighting and add additional pavement and related improvements. The parcel is located at 396 Daniel Webster Highway in the C-2 (General Commercial), R-4 (Residential), Aquifer Conservation, and Elderly Housing Overlay Districts. Tax Map 4D-3, Lot 032. Case #PB2021-26. **This item is continued from the July 6 and August 17, 2021 Planning Board meeting.**

Chairman Best reminded the Board that this application was a result of an enforcement action from the town and that staff does support this continuance, but recommends that it be the last one granted.

At the applicant's request, the Board voted 5-0-0 to continue the application's acceptance & public hearing to October 19 (stressing that this would be the last continuance granted without extreme circumstances) on a motion made by Lynn Christensen and seconded by Nelson Disco.

- 5. Crystal Felix (applicant) and Anibal Rivera Jr. (owner) –** Consideration of a Conditional Use Permit under Section 2.02.1.A.2.f of the Zoning Ordinance to permit a "Family Childcare Home" (as defined by NH State requirements) Home Occupation. The parcel is located at 182 Baboosic Lake Road in the R-3 (Residential) District. Tax Map 5B, Lot 065. Case #PB2021-36.

Casey Wolfe began by explaining that this case is before the Board because it is classified as a Level 2 Home Occupation because people will be coming and going from the property. She also reminded everyone that a similar case was heard by the Board in January 2021. Chairman Best asked if the Board had to approve one of the two child limits outlined in the staff memo (up to six children or more than 6 but less than 13) and Ms. Wolfe responded that they can either approve one of the two limits or approve up to the maximum number now to avoid having the applicant come back if she expands her business.

The applicant, Crystal Felix, was present to discuss her request with the Board. She advised the Board that she just moved here from Massachusetts where she had an in home childcare center for approximately six years and would like to start a new business from her home in Merrimack. She explained that she is hoping to have up to six kids and no staff. The center would only be open M-F and the hours will fall within the 7:00 A.M – 5:30 P.M. timeframe.

The Board discussed the size of the driveway and determined that given the size of it, there are no concerns with cars being able to drop off and pick up the children safely. They also asked Ms. Felix about the pool located on the property and she explained that it is an above ground pool that has a deck around it and the gates to access it are locked from the inside. The entire pool area is also fenced in. When asked about a playground area, she explained that if her licensing is approved, she will be adding a small play area on the side of the house. The room that will be used inside the house is a finished basement that is approximately 261 square feet and is accessed by a side door near the proposed play area. If the State licensing allows, this will be the location that parents will pick up and drop off. If it is not allowed, they will use the front entrance.

Nelson Disco asked if she knows if her septic system can handle the additional usage and Ms. Felix commented that it was just inspected when they purchased the house and they will be looking to replace it in the near future. Mr. Disco also expressed concerns with vehicles backing out onto Baboosic Lake Road and Ms. Felix assured him that there is plenty of room in the driveway to turn around without having to back up into the road.

Chairman Best asked about plans for a sign for the business and Ms. Felix explained that they would like to put up a 2 square foot sign in the yard on the corner of Baboosic Lake road and Bambi Trail. Chairman Best advised that the size is compliant with what is allowed and reminded her to make sure it is not erected within the right of way and to work with the Town for the appropriate permits. Neil Anketell asked if she would be having children at her house during the twilight hours and if so, is the walkway illuminated. Ms. Felix responded that she has children of her own so would like to cap her hours at 5:30 p.m. but the walkway is lit so visibility will not be an issue during the fall/winter months when it gets dark earlier.

Public comment

Robert Lacroix (3 Bambi Trail) expressed concerns with the placement of the sign because he is worried about obstructing the view of cars turning left onto Baboosic Lake Road. Chairman Best explained that the size is limited to 2 square feet and the permitting process will ensure that it is not placed in a spot that will impair anyone's line of sight to the road.

The Board voted 5-0-0 to grant conditional final approval, on a motion made by Nelson Disco and seconded by Lynn Christensen. The following condition applies:

1. The applicant shall obtain all applicable licenses/approvals from the State of NH for the childcare use and provide copies of such to the Community Development Department.
6. **Gary and Diane Kudalis (applicants/owners)** - Review for acceptance and consideration of a Site Plan to construct a 6,000 s.f. Equestrian Training Facility and related site improvements. The parcel is located at 102 Joppa Road in the R-2 (Residential), and Aquifer Conservation Districts. Tax Map 6C, Lot 388. Case #PB2021-37

At the applicant's request, the Board voted 5-0-0 to continue the application's acceptance & public hearing to October 19, on a motion made by Lynn Christensen and seconded by Jaimie von Schoen.

7. **Discussion/possible action regarding other items of concern.**

Chairman Best made a plug for more Planning Board members and advised the Board that he may not be available for both of the October meetings and Paul McLaughlin will chair the meetings in his absence. He added that he will participate via telephone if he is needed for a quorum.

Nelson Disco asked if the Master plan is still something the Board will be discussing in the near future. Chairman Best replied that it is still on the Board's radar to take an inventory of the current plan and start make plans for the next one. He also asked Ms. Wolfe to advise Tim Thompson (the Community Development Director) that the question was brought up.

Neil Anketell asked what changes were made at the last meeting to the Rules of Procedure and Lynn Christensen read him the changes that were captured in the meeting minutes. Casey Wolfe confirmed that it was not a major change.

Approval of Minutes — September 7, 2021

The Board voted 5-0-0 to approve the minutes of September 7, 2021, as amended, on a motion made by Jaimie von Schoen and seconded by Neil Anketell.

8. Adjourn

The Board voted 5-0-0 to adjourn at 7:55 p.m. on a motion made by Neil Anketell and seconded by Jaimie von Schoen.